

## Enforcement of Ordinances

Clerks of the Circuit Court  
Annual Conference  
2012

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## Methods of Enforcement

- Lien and certification as tax - IC 36-1-6-2
- Ordinance violations bureau – IC 33-36
- Administrative proceedings – IC 36-1-6-9
- Court proceedings – IC 34-28-5 and/or IC 36-1-6-4 (Includes all moving traffic violations)

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### IC 36-1-6-2

#### Lien and Certification as Tax

- Violation exists on real property
- The municipal corporation takes action to remedy and bills responsible party
- They record a lien for delinquent bills
- Certify delinquencies for collection as property taxes are collected

No work for the Clerk

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### IC 33-36 Ordinance Violations Bureau

- No moving traffic violations – Court Proceedings Only
- The legislative body of the county may establish, by ordinance an Ordinance Violations Bureau
- Legislative body appoints a Violations Clerk (may be the clerk)
- If they do not establish a Bureau, Clerk is the Violations Clerk automatically
- Violations Clerk is the administrator of the Bureau

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### Duties of the Violations Clerk

May accept:

1. Written appearances
2. Waivers of trial
3. Admissions of violations; and
4. Payment of civil penalties up to a specific dollar amount set forth in an ordinance but not more than \$250; subject to the schedule adopted by the legislative body

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### Schedule of Ordinance Violations

- Legislative body shall designate, by ordinance, a schedule of ordinance provisions that are subject to admission of violation before the Violations Clerk and the amount of civil penalty to be assessed to a violator who admits a violation
- Civil penalties shall be paid to, receipted by and accounted for by the Violations Clerk

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### Right to Trial

- A person charged with an ordinance violation is entitled to a trial before a court, unless the person waives the right to trial and enters an admission of the violation with the Violations Clerk
- Upon admission, the Violations Clerk shall assess and receive from the violator the amount prescribed by the schedule.
- If the person wants a trial, the person shall appear before the Violations Clerk and deny the violation or enter written denial with the Violations Clerk

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### Failure to Appear or Satisfy Civil Penalty

If a person:

1. Denies the ordinance violation
  2. Fails to satisfy the civil penalty assessed after admission of the violation; or
  3. Fails to deny or admit the violation;
- the clerk shall report this fact to the official having responsibility to prosecute ordinance violations cases for the county.

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### Other Facts About Ordinance Violations Bureaus

- Ordinance violations admitted are not judgments – No court case
- Violations processed are not considered as prosecuted for purposes of sharing in city/town court costs
- Civil penalties collected are paid to the municipal corporation
- Cities and towns that have not established a Bureau may enter into an interlocal agreement with another municipal corporation that has one

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### No Case for Ordinance Violations Bureau Activities




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### IC 36-1-6-9 Administrative Proceedings

Applies to ordinances that:

1. Restrict or prohibit actions harmful to land, air or water;
2. Govern use of the public way; or
3. Govern the standing or parking of vehicles

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### Legislative Body Adopts Ordinance

The ordinance designates:

1. The ordinances that may be enforced by administrative proceeding; and
2. The administrative body before which the proceeding may be brought

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### Proceedings of the Administrative Body

- Violation must be proven by preponderance of the evidence
- Fine amounts are limited by IC 36-1-3-8(a)(10)

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### Appeals of Administrative Body Ruling

- A person who receives a penalty may appeal to a court of record in the county
- The appeal must be filed not more than 60 days after the day on which the order of the Administrative Body is entered

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### IC 34-28-5 Court Proceedings

- Ordinance Violations Case is brought by municipal corporation and filed as normal by the Clerk – Case is opened
- Judgment may be entered up to the amount in the complaint limited by IC 36-1-3-8
- A defendant against whom judgment is entered is liable for costs. Costs are a part of the judgment and may not be suspended

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## There's a trick in IC 34-28-5

- Any court may establish a Traffic Violations Bureau
- Appoint a Violations Clerk who serves under direction of the court

Here we go again...



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